PAGENT COOPERATION TREATY

To:

From the INTERNATIONAL BUREAU

PCT

NOTIFICATION OF ELECTION

(PCT Rule 61.2)

Commissioner
US Department of Commerce
United States Patent and Trademark
Office, PCT
2011 South Clark Place Room
CP2/5C24
Arlington, VA 22202

Date of mailing (day/month/year)
10 January 2001 (10.01.01)

International application No.
PCT/IB00/00638

International filing date (day/month/year)
12 May 2000 (12.05.00)

Applicant
O'CONNOR, J., John et al

1.	The designated Office is hereby notified of its election made:
	X in the demand filed with the International Preliminary Examining Authority on:
	12 December 2000 (12.12.00)
	in a notice effecting later election filed with the International Bureau on:
2.	The election X was
	was not
ļ	made before the expiration of 19 months from the priority date or, where Rule 32 applies, within the time limit under Rule 32.2(b).
Ì	
1	

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Authorized officer

S. Mafla

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PATENT COOPERATION TREATY



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P032212/WO/1	FOR FURTHER ACTION	SeeNotificati Examination	ionofTransmittalofInternational Preliminary Report (Form PCT/IPEA/416)		
International application No. PCT/EP00/04154	International filing date (day/r 10 May 2000 (10.0	, ,	Priority date (day) onth year) 26 June 1999 (26.06199)		
International Patent Classification (IPC) or n B60R 16/02	national classification and IPC		VED 2002 AIL ROOM		
Applicant	DAIMLERCHRYSL	ER AG			
This international preliminary exam and is transmitted to the applicant ac This REPORT consists of a total of	ccording to Article 36.	•	ational Preliminary Examining Authority		
This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).					
I hese annexes consist of a to	otal of sheets.				
3. This report contains indications rela	ting to the following items:				
I Basis of the report			`*		
II Priority					
III Non-establishment o	of opinion with regard to novelty	y, inventive ste	p and industrial applicability		
IV Lack of unity of inv	ention				
V Reasoned statement citations and explan	under Article 35(2) with regard ations supporting such statemen	to novelty, inv t	rentive step or industrial applicability;		
VI Certain documents of	cited				
VII Certain defects in th	e international application				
VIII Certain observations	s on the international application	1			
Date of submission of the demand		completion of			
15 December 2000 (15.	12.00)	31 A	ugust 2001 (31.08.2001)		
Name and mailing address of the IPEA/EP	Author	ized officer			
Facsimile No.	Teleph	one No.			

International application No.

PCT/EP00/04154

I. Basis of the report					
1. With	regard to	the elements of the international application:*			
	the inte	rnational application as originally filed			
図	the desc	cription:			
لابكا	pages	•	4-7	, as originally filed	
	pages			, filed with the demand	
	pages	1-3,3a-3b	, filed with the letter of	15 May 2001 (15.05.2001)	
	•				
\boxtimes	the clai	ms:			
	pages			, as originally filed	
	pages		, as amended (together		
	pages			, filed with the demand	
	pages	1-5	, filed with the letter of	15 May 2001 (15.05.2001)	
\boxtimes	the drav	vings:			
_	pages		1/1	, as originally filed	
	pages			, filed with the demand	
	pages				
LJ t	•	nce listing part of the description:			
	pages				
	pages			, filed with the demand	
	pages		, filed with the letter of		
the ir These	the lan the lan the lan or 55.3 regard minary e contair	to any nucleotide and/or amino acid seq xamination was carried out on the basis of the s and in the international application in written for gether with the international application in com-	ated under this item. in the following language s of international search (under Rulation (under Rule 48.3(b)). coses of international preliminary quence disclosed in the international equence listing: rm. uputer readable form.	which is: le 23.1(b)). examination (under Rule 55.2 and/	
님		ed subsequently to this Authority in written for		-	
H		ed subsequently to this Authority in computer r			
		atement that the subsequently furnished wr tional application as filed has been furnished.	itten sequence listing does not	go beyond the disclosure in the	
		atement that the information recorded in com irmished.	iputer readable form is identical	to the written sequence listing has	
4.	The an	nendments have resulted in the cancellation of:			
		the description, pages			
		the claims, Nos.			
	=	·			
	ш	the drawings, sheets/fig	×c	* * * * * * * * * * * * * * * * * * * *	
5.		oort has been established as if (some of) the an the disclosure as filed, as indicated in the Supp		ce they have been considered to go	
in th		sheets which have been furnished to the receiving as "originally filed" and are not annexed			
** Any r	eplacem	ent sheet containing such amendments must be	referred to under item I and annex	ed to this report.	

International application No. PCT/EP 00/04154

I. Basis of the report

1.0

 This report has been drawn on the basis of (Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments.):

The amendments in Claim 1 are in contravention of PCT Article 34(2)(b) because they appear to go beyond the disclosure of the application as originally filed (see also International Preliminary Examination Guidelines, Section IV, Chapter VI-7.9 and VI-7.13).

- According to the original Claim 1, the units listed in the preamble of the claim are wired to a data bus, whereas according to the wording of the amended claim they are merely connected to it (in whatever way). Thus the subject matter of the claim appears to have been made more general.
- In the original claim, the operating and display unit is controlled by the processing unit; in the amended claim it is controlled by "other system components".
- The original disclosure of the characterising features is generally dubious, and is in some respects inconsistent with the description and drawings (in particular page 5 and Figure 1).
- With regard to the first characterising feature of the amended Claim 1, it is noted that although this seems to be the case in all Windows™-based computer systems, a question nevertheless arises concerning the disclosure of the feature, which should at least be explicit, particularly in view of the disjointed descriptions of Figures 1 and 2.
- With regard to the second and last feature, it is noted that page 5 refers to a <u>central</u> processing unit but not to a central system control by way of which the processing unit communicates with the other system components; according to the description, the central processing unit and the "other system components" communicate by way of an (additional) :; communication unit.

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v.	Reasoned statement under Article 3 citations and explanations supporting		y, inventive step or industrial app	licability;
1.	Statement			
	Novelty (N)	Claims		YES
		Claims	1-5	NO NO
	Inventive step (IS)	Claims		YES
		Claims		NO NO
	Industrial applicability (IA)	Claims	1-5	YES
		Claims		NO

2. Citations and explanations

1. Independent Claim 1

WO-A2-99/06987 (document D1) shows and describes the following (see Figures 1 and 2, and page 3, lines 4-16; page 3, line 33 to page 4, line 2; page 6, lines 26-28; page 7, lines 16-24; page 27, lines 2-10; page 35, line 21 to page 36, line 6; page 41, lines 11-35; page 44, lines 22-29; and Claims 21-24, 54 and 67):

- a vehicle communication system with a data bus ("common bus (113)") and components (117, 121, 125 ... 161) wired (or linked/connected) thereto, which include at least one operating and display unit ("master control interface (117)", shown in detail in Figure 2) and a processing unit that controls it ("subsystem interface (111)", "processor (193)", "memory (107)"), wherein a graphical user interface based on the HTML(XML) page format is implemented in the at least one operating and display unit (117) and/or the processing unit (103, 107, 111) that controls it.

Note:

According to page 27, lines 3-5, the vehicle communication system according to D1 runs on the Microsoft Windows^m operating system. As at the priority date of D1, the state of the art system was Windows^m 98, whose built-in browser Internet Explorer^m supports both HTML and XML as standard, as well as ActiveX and MMI applications.

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However, D1 also covers the features defined in the characterising part of the amended claim in its present version, since in D1 the HTML/XML-based graphical user interface is used (at least in the "Help" function") for communication between the at least one operating and display unit and the processing unit. (Note: As indicated in the description (page 36, line 4), the "Help" function in HTML format requires interactive communication and is not merely confined to the actual data format itself.)

Communication between the at least one operating and display unit and the processing unit relies on a central system control under Windows[™], which is obviously the only way the processing unit can communicate with the other system component(s).

The present application thus fails to meet the requirement of PCT Article 33(2) because its subject matter is not novel over the prior art as defined in the PCT Regulations (PCT Rule 64.1 - 64.3).

2. Dependent Claims 2-5

Dependent Claims 2-5 relate to other embodiments of the invention according to Claim 1 and likewise fail to meet the PCT requirements because a dependent claim can only meet the said requirements if the claim on which it is dependent also meets the requirements. Moreover, the features of the dependent claims appear to be known per se from the prior art documents cited below, and thus are not essential features susceptible of establishing novelty or inventive step in any way.

Claims 2-5: Document D1 - see the cited passages and the note relating to Claim 1; also WO-A1-98/51991 (document D4) - see in particular the abstract and both drawings.

3. Industrial applicability

The subject matter of Claims 1-5 appears to meet the requirement of PCT Article 33(4) because it seems that it can be manufactured and used at least in the field of automotive engineering.

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VII	Certain	defects	in the	international	annlication

The following defects in the form or contents of the international application have been noted:

The independent claim fails to meet the requirement of PCT Rule 6.3(b) because it is not presented in the two-part form with a preamble containing the features which, in combination with each other, form part of the closest prior art (see point 2 in Box V above).

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VIII. Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

Claim 1 fails to meet the requirements of PCT Article 6 because it is not clear.

- In the fourth line it is not clear which units/components are controlled by the processing unit (see also Box I above).
- In the seventh line the "and/or" conjunction is incorrect because it also covers the possibility of a graphical user interface solely for the processing unit, which makes no sense.
- With regard to the second characterising feature, it is noted that the inadequate disclosure (see Box I above) creates an inconsistency between the claim and the description, as well as a problem of clarity with respect to the implementation of the system control (i.e. in which part or parts the system control is implemented).

Furthermore, the connection between Figures 1 and 2 is not at all clear; that is, it is not clear which of the modules shown in Figure 2 runs in which of the parts shown in Figure 1. Consequently the description itself also lacks clarity.

The description (still) contains abbreviations which, although they may be in frequent use in the field of pure information technology or electronic data processing, are not necessarily generally known in the field of automotive engineering. Moreover, not all these abbreviations are fully explained.

The application thus fails to meet the requirements of PCT Article 6, particularly in respect of the stipulations concerning the clarity of the claims and support for the claims in the description.

PCT

WIPO PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant*	s or aç	gent's file reference	T		Soc Notifier	ation of Transmittal of International
61.1325	7.W0	6	FOR FURTHER A			Examination Report (Form PCT/IPEA/416)
Internation	nal app	olication No.	International filing date (/day/month/ye	ear)	Priority date (day/month/year)
PCT/IB0	00/00	638	12/05/2000			13/05/1999
A61F2/4	42 ——	ent Classification (IPC) or na TOPEDICI RIZZOLI et	7	c		
and i	is tran	national preliminary exami esmitted to the applicant a DRT consists of a total of	ccording to Article 36.			rnational Preliminary Examining Authority
ł (been a (see F	eport is also accompanied amended and are the bas tule 70.16 and Section 60 exes consist of a total of	is for this report and/or 7 of the Administrative	sheets con	taining rec	, claims and/or drawings which have stifications made before this Authority e PCT).
THES	e aiiii	exes consist of a total of	sneets.			
3. This	report	contains indications relat	ing to the following iten	ns:		
I	\boxtimes	Basis of the report				
II		Priority				
111	⊠			velty, inven	tive step a	nd industrial applicability
IV		Lack of unity of invention				
V	⊠	Reasoned statement uncitations and explanation	der Article 35(2) with re ns suporting such state	gard to nover ment	elty, inven	ntive step or industrial applicability;
VI		Certain documents cited	t			
VII		Certain defects in the int	ernational application			
VIII	Ø	Certain observations on	the international applic	ation		
Date of sub	missio	n of the demand		Date of com	pletion of th	is report
12/12/20	12/12/2000			31.08.2001		
Name and i	mailing exami	address of the international ning authority:		Authorized o	officer .	J. SO ISONES MILVIELD
<u>)))</u>	D-80	pean Patent Office 298 Munich	d	Daintith, N	1	(Egg 1846)
		+49 89 2399 - 0 Tx: 523656 6 +49 89 2399 - 4465	spind u			Bank James Jak

International application No. PCT/IB00/00638

	I.	Bas	is of	the	rep	ort
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1.	the an	receiving Office in	nents of the international application (Replacement sheets which have been furnished to response to an invitation under Article 14 are referred to in this report as "originally filed" this report since they do not contain amendments (Rules 70.16 and 70.17)):
	1-2	23	as originally filed
	Cla	aims, No.:	
	1-1	6	as originally filed
	Dra	awings, sheets:	
	1/7	-7/7	as originally filed
2.			uage, all the elements marked above were available or furnished to this Authority in the nternational application was filed, unless otherwise indicated under this item.
	The	ese elements were a	evailable or furnished to this Authority in the following language: , which is:
		the language of a t	ranslation furnished for the purposes of the international search (under Rule 23.1(b)).
		the language of pu	blication of the international application (under Rule 48.3(b)).
		the language of a t 55.2 and/or 55.3).	ranslation furnished for the purposes of international preliminary examination (under Rule
3.			leotide and/or amino acid sequence disclosed in the international application, the y examination was carried out on the basis of the sequence listing:
		contained in the int	ernational application in written form.
		filed together with t	he international application in computer readable form.
		furnished subseque	ently to this Authority in written form.
		furnished subseque	ently to this Authority in computer readable form.
			the subsequently furnished written sequence listing does not go beyond the disclosure in plication as filed has been furnished.
		The statement that listing has been fur	the information recorded in computer readable form is identical to the written sequence nished.
4.	The	amendments have	resulted in the cancellation of:
		the description,	pages:
		the claims,	Nos.:

International application No. PCT/IB00/00638

		the drawings,	sheets:							
5.		This report has been considered to go bey	established ond the disc	as if (: osure	some of) the as filed (R	e amendme ule 70.2(c)):	ents had no :	t been mad	le, since th	ney have been
		(Any replacement sh report.)	eet containin	g suci	h amendme	ents must be	e referred to	o under iter	n 1 and an	nnexed to this
6.	Add	ditional observations, i	f necessary:							
Ш.	No	n-establishment of o	pinion with r	egard	l to novelty	y, inventive	step and i	ndustrial a	applicabili	ity
1.		e questions whether the							step (to b	e non-
		the entire internation	al application							
	×	claims Nos. 10-16.								
be	caus	se:								
		the said international not require an interna	application, outional prelimi	or the nary e	said claims examinatior	s Nos. relate n (<i>specify</i>):	e to the follo	owing subje	ect matter v	which does
		the description, claim that no meaningful or					<i>ts below</i>) or	said claim	s Nos. are	e so unclear
		the claims, or said cla	ıims Nos. are	e so in	adequately	supported	by the desc	cription that	t no meani	ngful opinion
	×	no international searc	h report has	been (established	for the said	d claims No	s. 10-16.		
	and	eaningful international /or amino acid sequen ructions:	preliminary e ce listing to c	examir omply	nation cann with the st	not be carrie tandard prov	d out due to vided for in	o the failure Annex C of	e of the nuc f the Admir	cleotide nistrative
		the written form has n	ot been furni	shed o	or does not	comply with	the standa	ard.		
		the computer readable							dard.	
		soned statement und tions and explanation					inventive :	step or ind	ustrial ap	plicability;
1.	State	ement								
	Nov	elty (N)	Yes: Cl	aims	3					

International application No. PCT/IB00/00638

No:

Claims 1,2,4-9

Inventive step (IS)

Yes:

Claims 3

No:

No:

Claims

Industrial applicability (IA)

Yes:

Claims 1-9 Claims

2. Citations and explanations see separate sheet

VIII. Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made: see separate sheet

EXAMINATION REPORT - SEPARATE SHEET

POINT V

- 1. The subject-matter of independent claims 1, 7 and 9 is so broadly claimed that it reads on to the prior art, see for example US-A-4309778 (D1) colum 20, lines 32 to 62 and figs 49 to 52 and US-A-4470158, figs 1 to 33. The embodiments of these documents relating to knees are also covered by the subject-matter of claims 1 and 7. The requirement of novelty of Article 33 (2) PCT is not met.
- 2. The subject-matter of dependent claims 4-6 and 8 is likewise known from D1 and hence not novel with respect to D1 and D2.
- 3. The subject-matter of claim 3 does not appear to be known from nor rendered obvious by the cited prior art as none of the prior art shows the combination of bearing surface shapes of this claim. Hence claim 3 appears to fulfil the requirements of Article 3 (2) and (3) PCT.

POINT VIII

- Claims 1 and 7 are not supported by the description as the description concerns 4. only ankle joints and these claims are not restricted to ankle joints. The requirements of Article 6 PCT are not met.
- 5. Claim 2 is not clear as it define the subject-matter of a prosthesis in terms of the result to be achieved and not in terms of technical features of the invention. The requirements of Article 6 PCT are not met.

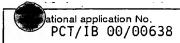
PCT

INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference	(Form PCT/ISA/	of Transmittal of International Search Report 220) as well as, where applicable, item 5 below.
61.I3257.W06	ACTION	
International application No.	International filing date (day/month/year)	(Earliest) Priority Date (day/month/year)
PCT/IB 00/00638	12/05/2000	13/05/1999
Applicant		•
ISTITUTI ORTOPEDICI RIZZO	LI et al.	· ·
according to Article 18. A copy is being tra		hority and is transmitted to the applicant
This International Search Report consists It is also accompanied by	of a total of sheets. a copy of each prior art document cited in this	report.
Basis of the report		
a. With regard to the language, the language in which it was filed, uni	international search was carried out on the ba less otherwise indicated under this item.	sis of the international application in the
the international search w Authority (Rule 23.1(b)).	vas carried out on the basis of a translation of t	he international application furnished to this
was carried out on the basis of the contained in the internation filed together with the internation		nternational application, the international search
	this Authority in computer readble form.	
the statement that the sub	osequently furnished written sequence listing d is filed has been furnished.	loes not go beyond the disclosure in the
		s identical to the written sequence listing has been
2. X Certain claims were fou	nd unsearchable (See Box I).	
3. Unity of invention is lac	king (see Box II).	
4. With regard to the title,		
the text is approved as su	, ,,	
the text has been establis	hed by this Authority to read as follows:	
	bmitted by the applicant. hed, according to Rule 38.2(b), by this Authorit date of mailing of this international search rep	
6. The figure of the drawings to be publi	shed with the abstract is Figure No.	1
as suggested by the appli		None of the figures.
because the applicant faile		
because this figure better	characterizes the invention.	·

INTERNATIONAL SEARCH REPORT



Box I	Observations where certain claims were found unsearchable (Continuation of item 1 of first sheet)
This Inte	ernational Search Report has not been established in respect of certain claims under Article 17(2)(a) for the following reasons:
1. X	Claims Nos.: 10-16 because they relate to subject matter not required to be searched by this Authority, namely:
	The subject-matter of claims 10 to 16 relates to medical methods and hence in accordance with Rule 39 (iv) PCT no examination will be carried out on these claims
2	Claims Nos.: because they relate to parts of the International Application that do not comply with the prescribed requirements to such an extent that no meaningful International Search can be carried out, specifically:
3.	Claims Nos.: because they are dependent claims and are not drafted in accordance with the second and third sentences of Rule 6.4(a).
Box II	Observations where unity of invention is lacking (Continuation of item 2 of first sheet)
This Inte	rnational Searching Authority found multiple inventions in this international application, as follows:
1.	As all required additional search fees were timely paid by the applicant, this International Search Report covers all searchable claims.
2.	As all searchable claims could be searched without effort justifying an additional fee, this Authority did not invite payment of any additional fee.
3.	As only some of the required additional search fees were timely paid by the applicant, this International Search Report covers only those claims for which fees were paid, specifically claims Nos.:
	covers only those claims for which rees were paid, specifically claims 1403
	No required additional search fees were timely paid by the applicant. Consequently, this International Search Report is restricted to the invention first mentioned in the claims, it is covered by claims Nos.:
Remark	on Protest The additional search fees were accompanied by the applicant's protest.
	No protest accompanied the payment of additional search fees.
	•

IPC 7	FICATION OF SUBJECT MATTER A61F2/42					
		:				
	o International Patent Classification (IPC) or to both national classif	cation and IPC	•			
B. FIELDS SEARCHED Minimum documentation searched (classification system followed by classification symbols)						
IPC 7	A61F		•			
,		•	•			
Documenta	tion searched other than minimum documentation to the extent that	such documents are included in the fields sea	rched			
Electronic d	ata base consulted during the international search (name of data b	and out where practical accept terms used)				
	•	ase and, where practical, search terms used)				
EPO-In	ternal					
	·					
C. DOCUM	ENTS CONSIDERED TO BE RELEVANT					
Category °	Citation of document, with indication, where appropriate, of the re	elevant passages	Relevant to claim No.			
Χ	US 4 309 778 A (BUECHEL FREDERIC	CK F ET AL)	1-9			
	12 January 1982 (1982-01-12)	10.50				
	column 20, line 32-62; figures 4	18-52				
Χ	US 4 470 158 A (BUECHEL FREDERIO	CK F ET	1-9			
	AL) 11 September 1984 (1984-09-11)					
	figures 1-33					
V	ED 2 720 157 A (DOUNET LEAN CLAI		1 0			
X	FR 2 730 157 A (BOUVET JEAN CLAU 9 August 1996 (1996-08-09)	JUE)	1-9			
	page 2, line 23 -page 3, line 27					
		·				
-			i			
		·				
	•	·				
		·				
Further documents are listed in the continuation of box C. Patent family members are listed in annex.						
° Special cat	egories of cited documents :	"T" later document published after the interna				
A document defining the general state of the art which is not considered to be of particular relevance or priority date and not in conflict with the application but cited to understand the principle or theory underlying the						
*E" earlier document but published on or after the international						
filing da "L" documer	nt which may throw doubts on priority claim(s) or	cannot be considered novel or cannot be involve an inventive step when the document in the countries of the contribution of t	considered to			
	s cited to establish the publication date of another or other special reason (as specified)	"Y" document of particular relevance; the clair cannot be considered to involve an inver				
"O" docume other m	nt referring to an oral disclosure, use, exhibition or leans	document is combined with one or more ments, such combination being obvious	other such docu-			
"P" documer	nt published prior to the international filing date but an the priority date claimed	in the art. "&" document member of the same patent fan	·			
	ctual completion of the international search					
o. u.e a		Date of mailing of the international search				
18	3 September 2000	2 6. 09. 00				
Name and m	ailing address of the ISA	Authorized officer	()			
	European Patent Office, P.B. 5818 Patentlaan 2 NL - 2280 HV Rijswijk					
	Tel. (+31-70) 340-2040, Tx. 31 651 epo nl, Fax: (+31-70) 340-3016	Daintith, N				

INTERNATIONALISEARCH-REPORT

on patent family members

PCT/IB 00/00638

Patent document cited in search report	Publication date	Patent family member(s)	Publication date
US 4309778 A	12-01-1982	AT 7456 T	15-06-1984
		CA 1176004 A	16-10-1984
		CA 1169201 A	19-06-1984
		DE 3067826 D	20-06-1984
		EP 0021421 A	07-01-1981
		JP 1210110 C	29-05-1984
		JP 56083343 A	07-07-1981
		JP 58048180 B	27-10-1983
		US 4340978 A	27-07-1982
US 4470158 A	11-09-1984	DE 2965891 D	25-08-1983
,		EP 0018364 A	12-11-1980
•		JP 5053501 B	10-08-1993
		JP 55500222 T	17-04-1980
		-WO 7900739 A	04-10-1979
FR 2730157 A	09-08-1996	NONE	